Ontario

OVERVIEW OF MEASURES CONTAINED IN THE CONTINUED PROTECTION FOR PROPERTY TAXPAYERS ACT, 2000 (BILL 140)

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Statutes of Ontario 2000, Chapter 25

Note: The information in this document is provided for general reference purposes only. For complete information or for precise interpretation, please refer to the relevant provisions of the legislation and regulations.

Document Prepared By:
Legislative Design Unit
Property Tax Policy Branch
Provincial-Local Finance Secretariat
Ministry of Finance

BACKGROUND

In 1998, the Province imposed mandatory limits on reform-related property tax increases for commercial, industrial and multi-residential properties of 10% for 1998, 5% in 1999, and 5% in 2000 to make the impact of current value assessment reform manageable for taxpayers. These limits were implemented under the *Fairness for Property Taxpayers Act, 1998*.

In the 1999 Ontario Budget, the Province made a commitment to maintain limits on property tax increases beyond 2000 to ensure the continuation of a manageable transition from the former outdated assessment system to the new current value assessment system.

PURPOSE OF ACT

The *Continued Protection for Property Taxpayers Act, 2000* implements the commitment made in the 1999 Budget to maintain limits on reform-related property tax increases beyond 2000 and to provide municipalities with mitigation tools to meet the limits on tax increases.

The Act also implements the following changes:

- the new real-time approach to the taxation of vacant business properties, as announced by the Minister of Finance on January 12, 2000;
- the new treatment for waterpower generating stations, as announced by the Minister of Finance on September 15, 2000; and
- a variety of measures designed to improve the equity and administrative effectiveness of the property tax system.

To implement these measures, this Act makes amendments to the *Assessment Act*, the *Municipal Act*, the *Education Act*, the *Municipal Tax Assistance Act*, the *Electricity Act*, the *Provincial Land Tax Act*, and the *Municipal Elections Act*. Details of the amendments are set out below.

LIMITS ON TAX INCREASES FOR 2001 AND BEYOND

This Act adds a new Part XXII.3 to the *Municipal Act* which contains the provisions governing limits on property tax increases for 2001 and subsequent years.

The Limits

For 2001 and subsequent years, all municipalities are required to limit the reform-related property tax increases on commercial, industrial and multi-residential properties to 5% per year.

The City of Toronto, which adopted a 2.5% cap for 1998, 1999 and 2000, has the option of applying a 2.5% limit starting in 2001. The City has until February 28 of each year (or such later date as may be prescribed by the Minister of Finance) to select a 2.5% limit, otherwise the 5% limit will apply.

Municipal levy increases, where permitted, would be applied in addition to the limit.

The limit will be calculated each year based on the previous year's taxes.

The limit will remain in place until properties reach their current value assessment to allow for a gradual, manageable and predictable transition to reform.

Properties subject to the Limit

The limit applies to all property in the commercial, industrial and multi-residential classes (the "protected classes"), subject to the following exclusions:

- property in territory without municipal organization;
- farmland awaiting development;
- property that is subject to payments in lieu of taxes (however, commercial tenants in provincially-owned properties will be protected by the limits);
- international bridges and tunnels;
- convention centres that are eligible for an education tax exemption; and
- certain generation and transformer facilities.

The limit does not apply to property in the residential, farmland, managed forest, and pipeline property classes.

Tenants

Business tenants who entered into occupation of their current premises prior to property tax reform in 1998 are protected by the 5% limit.

Landlords of commercial and industrial property are required to limit the tax increases of eligible tenants to 5% per year (or 2.5% if chosen by Toronto) over the amount charged to the tenant in the previous year. The landlord may add on municipal levy increases where applicable.

The protection of the limits applies to tenants who were subject to the 2.5% and the 10-5-5% tenant caps, that is, tenants who occupied their current premises as of December 31, 1997 ("eligible tenants").

Landlords of business properties may recover any property tax shortfall that results from the limitation of tax increases on eligible tenants by limiting the tax decreases of other tenants who occupied their premises as of:

- June 11, 1998 (the date of passage of the *Small Business and Charities Protection Act, 1998*) for properties that were under the 2.5% cap in Toronto; and

- December 18, 1998 (the date of passage of the *Fairness for Property Taxpayers Act, 1998*) for properties that were subject to the 10-5-5% cap.

New Construction and other Property Changes

Properties that undergo substantial changes or that change classification will benefit from competitive tax treatment in the year of the change and will thereafter be protected by the 2.5% and 5% limits.

For the first year that a property undergoes a change, as described below, the taxes on the property will be calculated based on the **lower of** the property's current value assessment (CVA) or the property's CVA adjusted downwards to reflect the average level of taxation of similar properties in the vicinity.

- The level of taxation of each similar property will be determined by comparing the actual taxes levied on the property (subject to the 2.5% or 5% limit) to the taxes that would be levied based on the property's current value assessment.
- A level of taxation will be established for up to six similar properties in the vicinity of the subject property, and the average of these levels will be calculated.
- If the average level of taxation of the similar properties is below the level of the subject property, the taxes of the subject property will be reduced by the average level of the similar properties.

Properties subject to this competitive treatment, starting in 2001, include:

- newly-constructed commercial, industrial and multi-residential properties;
- commercial, industrial and multi-residential properties that undergo a renovation or addition that increases the assessed value of the property by 50% or more;
- property that used to be exempt from taxation and becomes taxable in the commercial, industrial or multi-residential class;
- commercial, industrial and multi-residential land that undergoes subdivision or severance;
- properties that change classification from an uncapped class into a capped class, or between capped classes;

- properties that moved into the commercial, industrial or multi-residential classes in 1998, 1999 or 2000 due to a change in use or because they ceased to be exempt from taxation.

MITIGATION TOOLS TO MEET THE LIMIT

Municipalities have the option of meeting the limit through a variety of mitigation tools, including the following.

Capping Mechanism:

- A new capping mechanism is made available to municipalities under the new Part XXII.3 of the *Municipal Act*.

- Features of this tool include the following:
  - S It is a permissive tool, authorizing, but not requiring, the limitation of tax decreases as a means of funding the limit.
  - S It does not require the use of a frozen assessment listing.
  - S It can be used in conjunction with other tools.

Optional Property Classes:

- The optional property classes (as prescribed under section 7 of the *Assessment Act*) continue to be available to municipalities.

- The deadline for adopting optional classes for the 2001 tax year is extended from October 31, 2000 to April 30, 2001.

Graduated Tax Rates:

- The graduated tax rate mechanism under section 368.2 of the *Municipal Act* remains unchanged. Municipalities can apply different tax rates to various portions of the assessment of commercial and industrial properties.

Municipal Tax Reductions:

- The municipal tax rebate tool under section 442.2 of the *Municipal Act* is replaced with a new tax reduction mechanism.

- Using this mechanism, municipalities could reduce the taxes of commercial, industrial and multi-residential property down to the limit by processing a reduction on the tax bill rather than issuing an after-the-fact rebate.

- Municipalities would fund the costs of tax reductions under this mechanism. The cost would not be shared by school boards.

Phase-Ins:

- A new phase-in tool is created under section 372.2 of the *Municipal Act*.

- The new phase-in is a modified version of the existing phase-in that was made available for the 1998 reassessment under section 372 of the *Municipal Act*.

- The new phase-in mechanism is a permanent tool that can be used to gradually implement tax increases and decreases upon each reassessment.

- The new phase-in tool allows municipalities to:
  - S phase in all tax changes that occur in the year of a reassessment;
  - S take up to eight years following each reassessment to phase in tax changes;
  - S establish phase-in thresholds based on percentages or dollar amounts;
  - S replace an existing phase-in with a new phase-in, provided that the new phase-in applies for at least as many years as remain outstanding under the original phase-in;
  - S phase in equal amounts each year or phase in variable amounts, provided that the amount phased in each year is no more than the amount phased in for the previous year.

MUNICIPAL LEVY CHANGES

Moving Tax Burdens:

The freeze on tax ratios that was imposed for 1998, 1999 and 2000 under section 363 of the *Municipal Act* will expire at the end of 2000. Therefore, for 2001, the pre-existing rules respecting tax ratios and ranges of fairness will govern because this Act does not amend those rules.

Municipalities have the flexibility to adjust tax ratios to shift taxes among property classes provided that the tax ratios are not moved away from the provincial ranges of fairness as prescribed under section 363(6) of the *Municipal Act*.

- The general rule respecting movement of tax ratios (as set out in section 363) is that if the tax ratio of a property class falls outside (either above or below) the range of fairness prescribed for that class, the municipality must either maintain the existing tax ratio or adjust the ratio so that it moves closer to the range of fairness. A municipality cannot move its tax ratios away from the range of fairness.

Levy Increases:

Municipalities may impose levy increases on one or more property classes. However, if the tax ratio of a property class exceeds the prescribed threshold ratio for that class, any municipal tax rate increase on the class will be limited in the prescribed manner, in accordance with the new subsections 366(4.1)-(4.4) for upper-tier municipalities and 368(4.1)-(4.4) for local municipalities.

TRANSITION RATIOS

This Act adds a new subsection 363(7.1) to the *Municipal Act* to give the Minister of Finance the authority to prescribe new transition ratios. This would facilitate the recalculation of new tax ratios upon reassessments if required, as well as the calculation of new tax ratios upon municipal restructurings.

DEADLINE EXTENSIONS

To give municipalities ample time to consider their tax policy options each year, this Act extends the following deadlines:

Event	Current Deadline	Extended Deadline	Provision to be Amended
Delegation: Deadline for upper-tier municipalities to pass by-laws delegating tax ratio setting authority to lower-tiers.	January 15	February 28	Municipal Act, section 364
Municipal Tax Reductions (former rebate tool): Deadline for upper-tier municipalities to pass by-laws adopting a municipal tax reduction program for commercial, industrial or multi-residential properties.	February 1	April 30	Municipal Act, section 442.2
Tax Ratios: Deadline for upper-tier and single-tier municipalities to pass by-laws establishing tax ratios for the year.	March 15	April 30	Municipal Act, section 363
Tax Rates: Deadline for upper-tier municipalities to pass by-laws establishing upper-tier rates for the year.	March 31	April 30	Municipal Act, section 366
Graduated Tax Rates: Deadline for upper-tier municipalities to pass by-laws adopting graduated tax rates for the year.	March 31	April 30	Municipal Act, section 368.2

Optional Property Classes: Deadline for upper-tier municipalities to pass by-laws adopting optional property classes for the year. This deadline is only extended for the 2001 tax year to facilitate analysis of reassessment impacts. For future years, the deadline would be October 31 of the preceding year to allow for the appropriate coding of properties on the assessment roll.	October 31, 2000	April 30, 2001	Assessment Act, section 2

VACANT BUSINESS PROPERTY

Vacant Buildings

This Act amends the *Municipal Act* (adding a new section 442.5) and the *Assessment Act* (section 8) to implement a new real-time approach to the taxation of vacant buildings on commercial and industrial properties.

Under these amendments, tax reductions for vacant commercial and industrial buildings will be provided to property owners by municipalities through rebates.

Buildings will be shown on the assessment roll each year as fully occupied, regardless of whether there are vacant units in a building at the time of the preparation of the assessment roll, and tax reductions will be provided exclusively through rebates without any alterations of the assessment roll.

The onus will be on property owners to submit an application to the local municipality for a rebate. Applications may either be filed during the year (e.g. after a vacancy has ended because a property becomes occupied mid-way through the year) or after year-end up to February 28th of the following year.

The percentage tax reduction to be provided through the rebates will be 30% for commercial property and 35% for industrial property (unless a municipality has selected a common percentage for both classes under section 368.1(4) of the *Municipal Act*).

The following features of the program will be established in regulation:

- the definition of eligible property (i.e. what constitutes vacant space for the purpose of this rebate program); and

- the calculation methodology (i.e. determining the portion of the property's total tax that is attributable to the vacant area to which the 30%-35% tax reductions will be applied).

Taxpayers may appeal to the Assessment Review Board if they believe the amount of their rebate is too low.

Excess Land and Vacant Land

Excess land will continue to be shown on the assessment roll in an excess land sub-class. Section 8 of the *Assessment Act* is amended to remove "vacant units" from the "vacant units and excess land" sub-classes, simply leaving sub-classes for "excess land".

Vacant land is not affected by the new rebate program. Vacant parcels of land will continue to be identified by assessors and included on the assessment roll in one of the vacant land sub-classes.

RESIDENTIAL PROPERTIES

Phase-Ins

The new phase-in tool to be added in section 372.2 of the *Municipal Act* (as discussed above under the heading "Mitigation Tools to Meet the Limits") is available for the residential, farmland and managed forest property classes in addition to the business property classes.

Municipalities can phase in all tax changes upon each reassessment starting in 2001. Municipalities have the option of phasing in tax changes over a period of up to eight years.

Mandatory Relief for Low-Income Senior and Disabled Homeowners

For the 1998 reassessment, municipalities were required under section 373 of the *Municipal Act* to provide property tax relief to low-income seniors and low-income people with disabilities in respect of assessment-related tax increases on their principal residence.

- Relief was mandatory where the homeowner, or the spouse of the owner, was a "low-income senior" or a "low-income person with a disability" as defined by the upper-tier or single-tier municipality.

- The amount of relief (i.e. the extent of the assessment-related tax increase from which relief would be provided) and the form of relief (i.e. whether a cancellation, rebate or deferral) were at the discretion of each upper-tier and single-tier municipality.

This Act amends section 373 of the *Municipal Act* to make this relief a permanent requirement upon each reassessment. This Act expands the eligible amount of relief by allowing municipalities to provide relief from all tax increases (i.e. including municipal levy increases), not just reassessment-related tax increases.

Optional Relief from Hardship

A new provision is added as section 442.6 of the *Municipal Act* to give local municipalities the option of providing property tax reductions or refunds to owners of residential, farm or managed forests property if the taxes on the property are "unduly burdensome" as defined by the municipality.

Municipalities will determine the amount of relief and the eligibility criteria.

The cost of relief will automatically be shared by school boards in respect of the education portion of the tax. Upper-tier municipalities have the option of sharing the cost with respect to the upper-tier portion of the property tax.

Exemption for Portion of Homes Built for Seniors and People with Disabilities

The *Assessment Act* currently exempts from taxation any alterations and additions that are made to **existing residential premises** to accommodate seniors or people with disabilities.

This Act amends section 3(1)22 of the *Assessment Act* to extend similar treatment to **newly-built homes** by providing an exemption from taxation for a prescribed portion of new homes that are designed to accommodate seniors and people with disabilities.

REBATES TO CHARITIES

Amount of Rebates

During the three years of the 2.5% and 10-5-5% caps, there were special provisions in section 442.1 of the *Municipal Act* governing the amount of rebates to be paid to charities. These provisions sunset at the end of 2000 and are not extended by this Act. Therefore, the original requirements take effect and municipalities will be required to provide eligible charities with rebates of at least 40% of their property tax starting in 2001, unless a different percentage is prescribed by the Minister of Finance.

- Charities will be eligible for this mandatory rebate if they have a valid registration number issued by Canada Customs and Revenue Agency, and if they are occupying commercial or industrial property.
- Charities who are **tenants** of business property will be eligible for the rebate in the same way as property **owners**.

Municipalities continue to have the option of providing rebates to organizations that are similar to eligible charities (i.e. non-profit organizations), and they have the option of providing rebates in excess of the minimum amounts required under section 442.1(3) up to 100% of the property tax paid by charities and similar organizations.

- Section 442.1(4) of the *Municipal Act*, which contains the provisions governing optional rebate parameters, is amended for greater clarity.

Payment Deadlines

The rebate payment deadlines in section 442.1(3) of the *Municipal Act* are changed to enhance flexibility for both municipalities and charities.

The current deadlines are fixed at January 15th of the tax year for the first instalment and June 30th for the balance of the rebate. Under the amendments made by this Act, municipalities are required to issue half of the rebate payment to a charity within 60 days after the receipt of the charity's application, and the balance of the rebate would be payable within 120 days of the receipt of the application, with adjustments (if any) being made after the issuance of final tax bills for the year.

UNIQUE PROPERTIES

Waterpower Generating Stations

A new provision is added to section 3 of the *Assessment Act* and to section 3 of the *Provincial Land Tax Act* to exempt waterpower generating stations and related lands from property taxation.

- An exemption from taxation is also added to section 3 of the *Assessment Act* for poles, lines and towers owned by power utilities. This replicates an exemption that was formerly in the *Power Corporation Act*.

The *Electricity Act* is amended to require owners of stations who are successors of Ontario Hydro or municipal electrical utilities to pay to the Ontario Electricity Financial Corporation a charge calculated as a specified percentage of the gross revenue from the production of electricity at the station. Private waterpower producers will pay an equivalent tax to the Province.

The *Electricity Act* is amended to require the holders of provincial water leases to pay a water rental charge to the Province calculated at the rate of 9.5% of gross revenue from the production of electricity at the station.

For new stations that are completely re-built or expanded, the gross revenue resulting from the production of additional capacity associated with the plant expansion will qualify for a ten-year holiday from property taxes and water rental charges.

Convention Centres

The *Education Act* is amended (addition of new subsections 257.6(6) and (7)) to exempt prescribed (large) convention centres from the education portion of the property tax.

The *Assessment Act* is amended (addition of new section 27.2) to require prescribed (large) convention centres that are exempt from property taxation to make payments in lieu of taxes in such amount as may be set out in regulation.

Airport Authorities

The Act revises the method for determining payments in lieu of property taxes made by airport authorities by repealing the provision in section 3(1)24 of the *Assessment Act* which requires the amount of payments in lieu of taxes to be determined annually by the Minister of Finance. This provision is replaced with a new regulated methodology.

Clerics' Residences

This Act amends section 3(1)3 of the *Assessment Act* to provide an exemption from taxation for 50% of the assessed value of the residence occupied by the principal cleric of a place of worship where the residence is located at the site of the place of worship.

The *Assessment Act* currently provides an exemption from taxation to places of worship and land used in connection therewith but does not define "land used in connection".

TECHNICAL AMENDMENTS

This Act makes the following technical amendments to promote the equity and administrative effectiveness of the property tax system.

Education Tax Cut: Section 257.12.2 of the *Education Act* (which governs the eight-year business education tax cut) is amended to remove references to 3.3% and replace those references with a percentage to be prescribed by the Minister of Finance. (The percentage, which represents the provincial average business education tax rate, needs to be updated upon each reassessment.)

Billing Different Classes at Different Times: Amendments to section 392 of the *Municipal Act* allow municipalities to issue tax bills for different property classes at different times. This makes permanent an authority that was provided to municipalities for 1998, 1999 and 2000.

Interim Levies: Sections 370 and 371 of the *Municipal Act* are amended to modify the rules respecting calculation of interim levies. Under the new rule, interim taxes on a property shall be based on 50% of the taxes levied on the property in the previous year rather than 50% of the rate applied in the previous year.

Temporary Borrowing Limits for Municipalities: An amendment to section 187 of the *Municipal Act* expands the temporary borrowing limits of municipalities for 2001 from 50%

to 70% of budgeted revenues for the January 1 to September 30 period, and from 25% to 45% for the October 1 to December 31 period.

Haldimand and Norfolk: A new section 363.2 is added to the *Municipal Act* to provide the Minister of Finance with the authority to deem the Towns of Haldimand and Norfolk to be a single municipality for tax-related matters.

Frozen Assessment Listing Corrections: A new section 447.26.1 is added to the *Municipal Act* to allow corrections to be made to the frozen assessment listing after 2000 to ensure the integrity of the base used for calculating taxes for 2001 and future years.

Amended Notices of Assessment: Section 32 of the *Assessment Act* is amended to require the Ontario Property Assessment Corporation (OPAC) to issue Amended Notices of Assessment to reflect changes in a property's classification where the change results from an amendment to the regulation defining property classes under the *Assessment Act* and the taxes that were levied on the property under the original classification exceed the taxes that would have been levied under the revised classification. Notices may be issued for the current year and, if the regulation is retroactive in its application, for up to three preceding tax years.

Supplementary Notices of Assessment: Section 34(2.1) of the *Assessment Act* is amended to allow OPAC to issue supplementary notices of assessment to reflect changes in a property's classification to a lower-taxed class during a tax year. (At present, supplementary assessment notices can only be issued where there are changes to a higher-taxed class.)

Requests for Reconsideration: Amendments are made to section 39.1 of the *Assessment Act:*

- Clarify that requests can be filed by the current owner of the property and by anyone who was entitled to receive a notice of assessment. (This allows requests to be made by persons who buy a property after the assessment roll is returned, or by persons who did not receive a notice.)
- Allow taxpayers who receive a notice of supplementary or omitted assessment to make requests for reconsideration up to December 31 of the taxation year or within 90 days after receiving the notice of supplementary/omitted assessment, whichever is later.
- Remove the Assessment Review Board from the process so that a taxpayer and assessor who reach an agreement to alter an assessment through the reconsideration process would notify the municipality who would adjust the collector's roll accordingly. If the municipality objects to the proposed settlement, it would continue to have a right to appeal the change to the Assessment Review Board. (This amendment eliminates unnecessary red tape.)

Farm Lands and Buildings: Section 19(5) of the *Assessment Act* is amended to clarify the wording of the provision governing the assessment of farm lands and to give the Minister of Finance the ability to define "farm lands" and "farm purposes" for the purposes of this Act. As

well, a new subsection 19(5.0.1) is added to provide for the assessment of prescribed lands and buildings at farm rates.

Seminaries of Learning: Section 3(1)5 of the *Assessment Act* is amended to clarify the wording of the exemption for non-profit seminaries of learning to ensure that the exemption will be accorded to buildings and up to 50 acres of land.

Gross Leases: Amendments to sections 444.1 and 444.2 of the *Municipal Act* simplify the notices that landlords with gross leases are required to send to tenants with respect to the recovery of property taxes and BIA charges by:

- eliminating the requirement to send a "notice of intent to require payment" by January 31st of each tax year; and
- allowing tenants to pay taxes in instalments throughout the year, with adjustments to be made at year-end based on the final tax bill (as opposed to the current provisions which do not allow the landlord to require payment of any amount on account of property taxes until after the final tax bill has been received).

Tenants in Provincial Property: Section 4(3) of the *Municipal Tax Assistance Act* is amended to clarify that tenanted portions of provincially-owned properties should not be subject to direct taxation but rather should be subject to payments in lieu of taxes. As well, section 14(1) of the *Assessment Act* is amended to require OPAC to show the aggregate assessed value of tenanted portions of provincial properties on the assessment roll (because the tenanted portions are protected by the 5% limit).

Court Applications: An amendment to section 46 of the *Assessment Act* clarifies that the court, upon an application for the interpretation of an assessment or taxation matter, can alter assessments made and taxes levied for years prior to the year in which the application was made in respect of supplementary or omitted assessments. (The Act currently only allows the court to alter assessments made for the year in which the application is made and for subsequent years, but not for prior years.)

Holidays: A new section 47 is added to the *Assessment Act* to stipulate that if the last day for doing anything under the Act falls on a holiday, the deadline is the next day that is not a holiday. The definition of "holiday" is the same as the one used under the Rules of Civil Procedure which apply to all court proceedings. Holiday is defined in those Rules as including Saturdays and Sundays.

- In the absence of a provision defining "holiday" in the *Assessment Act*, the definition in the *Interpretation Act* governs. The definition of "holiday" in the *Interpretation Act* excludes Saturdays.